

9 FAM 41.102 Notes

(TL:VISA-327; 10-17-2001)

9 FAM 41.102 N1 Personal Appearance and Interview

(TL:VISA-327; 10-17-2001)

Section 222(e) of the Immigration and Nationality Act, as well as 9 FAM 41.101 N3 and 9 FAM 41.102 N2 cover the general requirement that all aliens applying for a nonimmigrant visa appear before, and be interviewed by a consular officer, unless the consular officer waives the personal appearance. The consular officer shall determine, on the basis of the applicant's application and interview:

- (1) The applicant's eligibility to receive a visa, and
- (2) The proper nonimmigrant classification of the visa applicant.

9 FAM 41.102 N2 Waiver of Personal Appearance

(TL:VISA-327; 10-17-2001)

Waiver of the applicant's personal appearance does not relieve the consular officer from responsibility for the final decision. A personal appearance may be waived, at the consular officer's discretion, in the case of a nonimmigrant visa applicant who:

- (1) Is under 14 years of age;
- (2) Is classifiable under the visa classification symbols A, B, C-1, G, H-1, I or NATO;
- (3) Makes application for a diplomatic or official visa;
- (4) Is classifiable under the visa classification symbol J-1, and who qualifies as a leader in a field of specialized knowledge or skill. The J-1 visa applicant must also be the recipient of a U.S. Government grant, and his or her spouse and children must qualify as J-2 visa holders;
- (5) Is an aircraft crewman classifiable under INA 101(a)(15)(D). The application must be supported by a letter from the employing carrier certifying that the applicant is employed as an aircraft crewman; and
- (6) Satisfies the consular officer that a waiver is warranted in the national interest, or because of unusual circumstances, including hardship to the visa applicant.

9 FAM 41.102 N3 Personal Appearance in INA 212(d)(3)(A) Waiver Cases

(TL:VISA-186; 03-25-1999)

Ordinarily, a personal appearance should be required of any alien for whom a waiver of visa ineligibility under INA 212(d)(3)(A) is sought. However, if the applicant is otherwise qualified as a nonimmigrant, the officer may waive a personal appearance if:

- (1) Sufficient information is available on which to base a request for a waiver of personal appearance; and
- (2) No collateral intelligence purpose would be served by the applicant's personal appearance.

9 FAM 41.102 N4 Personal Appearance Required

(TL:VISA-186; 03-25-1999)

A personal appearance is required for applicants who:

- (1) Do not reside in the consular district where he or she is making application;
- (2) Were previously refused visas (unless the refusal was overcome);
- (3) Are the subject of a CLASS hit, or require a security advisory opinion or other Department clearance; (exceptions can be made for A and G visas); and
- (4) Are identified by post as belonging to a group or sector of its visa clientele representing a high fraud risk, high refusal rates, or a security threat. (For example, if post has found first-time students to be a particular problem, their interviews should not be waived.)

9 FAM 41.102 N5 Conduct of Visa Interviews

(TL:VISA-186; 03-25-1999)

Interviewing visa applicants is one of the most demanding jobs of the consular officer. Techniques for good interviewing, including the critical skill of how to ask the right questions, deserve careful attention. Consular officers should make every effort to conduct visa interviews fairly and sympathetically. Any semblance of cross-examination, assumption of bad faith or entrapment must be avoided. In cases where the consular officer's determinations are difficult to make, or which are, or may become the subject of controversy, the officer should make a careful record of the interview so that the basis for the final action can be fully documented.

9 FAM 41.102 N6 Additional Application Requirements

(TL:VISA-186; 03-25-1999)

The waiver of an applicant's personal appearance is not intended to change the requirements and standards of existing regulations and instructions with regard to security checks, visa classification, number of entries, and validity of visas.